

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

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XCLUSIVE-LEE, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.: 19-cv-520
	:	
JELENA NOURA “GIGI” HADID,	:	COMPLAINT AND JURY
	:	DEMAND
Defendant.	:	
	:	
	:	

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COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, XCLUSIVE-LEE, INC. (“Xclusive” or “Plaintiff”), brings this complaint in the United States District Court for the Eastern District of New York against JELENA NOURA “GIGI” HADID (“Hadid” or “Defendant”), alleging as follows:

PARTIES

1. Xclusive is a New York Domestic Business Corporation with a principal place of business in Rego Park, New York.
2. Hadid is an American fashion model. In 2016, Hadid was named International Model of the Year by British Fashion Council. Hadid has modeled for Versace, Chanel, Elie Saab, Fendi, Marc Jacobs, Anna Sui, Miu Miu, Balmain, Diane Von Furstenberg, Tommy Hilfiger, Fenty, Puma, Isabel Marant, and Giambattista Valli. Hadid has also starred in advertising campaigns for Guess, Versace, Penshoppe, Balmain F/W 2015, Topshop, Max Mara, and Stuart Weitzman. Hadid has appeared on the covers of magazines such as *Vogue* (United States, Paris, Italy, Britain, Japan, Spain, Australia, Brazil, the Netherlands, Germany, Italy,

China), *Schön!*, *Numéro*, *Allure*, *W Magazine* and *Teen Vogue* as well as *WSJ Magazine*, *Elle Canada*, *Dazed* and *Harper's Bazaar*.<sup>1</sup> Hadid maintains and is personally responsible for her official Instagram account, which has over 44 million followers worldwide. Hadid resides in New York, New York.

**JURISDICTION AND VENUE**

3. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
4. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
5. Defendant is subject to personal jurisdiction in New York.
6. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Plaintiff resides in this district, and Defendant is subject to personal jurisdiction in this district.
7. This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a). This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a).

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<sup>1</sup> [https://en.wikipedia.org/wiki/Gigi\\_Hadid](https://en.wikipedia.org/wiki/Gigi_Hadid)

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

8. Xclusive is the copyright holder of “Gigi Hadid on Oct 11, 2018” (“Copyrighted Photograph”), which was captured on October 11, 2018 in New York City. [Exhibit 1].
9. On October 12, 2018, Hadid copied and uploaded Copyrighted Photograph to Hadid’s Instagram account.
10. As a result of Hadid’s actions described in Paragraph 11, Copyrighted Photograph was posted and publicly displayed to the following URLs:
  - [www.instagram.com/gigihadid/?hl=en](http://www.instagram.com/gigihadid/?hl=en). (Last visited October 15, 2018) [Exhibit 3]
  - [www.instagram.com/p/Boz7ASBHDt/?hl=en&taken-by=gigihadid](http://www.instagram.com/p/Boz7ASBHDt/?hl=en&taken-by=gigihadid) (Last visited October 15, 2018). [Exhibit 4]. (together “Instagram Posts”)
11. Hadid copied and posted Copyrighted Photograph to Hadid’s Instagram account without license or permission from Xclusive.
12. Hadid’s Instagram account is followed by more than forty-three million (43,000,000) individuals throughout the world. [Exhibit 4].
13. More than 1.6 million (1,600,000) followers commented on Instagram Posts within four days of October 12, 2018. [Exhibit 4].
14. Prior to October 12, 2018, Hadid had first-hand knowledge that copying and posting photographs, of herself or other subject matters, to her Instagram or other social media accounts that she did not properly license or otherwise receive permission from the copyright holder constituted copyright infringement.
15. Specifically, Hadid was named as a defendant and served with a copy of a complaint and summons in a suit alleging copyright infringement, *Peter Cepeda v. Jelena Noura “Gigi” Hadid and IMG Worldwide, Inc.*, 1:17-cv-00989-LMB-MSN (E.D. Va.) (2017).

16. Although the case was settled prior to the discovery stage of litigation, the facts alleged in *Cepeda* are nearly identical to the facts alleged in the present case, including the allegation Hadid copied and posted Plaintiff Cepeda's copyrighted photograph (of Hadid on a public street in New York City) to Hadid's Instagram and Twitter accounts without license or permission from Cepeda.
17. As of the date of this filing, Hadid's Instagram account includes at least fifty (50) examples of uncredited photographs of Hadid in public, at press events, or on the runway. [Exhibit 5]. Most if not all of these photographs were posted by Hadid without license or permission from the copyright holder.

COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. § 101 ET SEQ.

18. Xclusive incorporates herein by this reference each and every allegation contained in each paragraph above.
19. Xclusive is the copyright owner or licensee of exclusive rights under United States copyright with respect to Copyrighted Photograph, which is the subject of a valid and complete application before the United States Copyright Office for Certificate of Copyright Registration by the Register of Copyrights.
20. Among the exclusive rights granted to each Xclusive under the Copyright Act are the exclusive rights to reproduce and distribute the Copyrighted Photograph to the public.
21. Xclusive is informed and believes Hadid, without the permission or consent of Xclusive, copied and used Copyrighted Photograph on Hadid's Instagram account. In doing so, Hadid violated Xclusive's exclusive rights of reproduction and distribution. Hadid's actions constitute infringement of Xclusive's copyright and exclusive rights under copyright.
22. Xclusive is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Xclusive.
23. As a result of Hadid's infringement of Xclusive's copyright and exclusive rights under copyright, Xclusive is entitled to statutory damages, including any profits realized by Hadid attributable to the infringement, pursuant to 17 U.S.C. § 504 for Hadid's infringement of Copyrighted Photograph.

**COUNT II: CONTRIBUTORY INFRINGEMENT**

24. Xclusive is informed and believes that Hadid, without the permission or consent of Xclusive, knowingly made available Copyrighted Photograph to innumerable individuals and media outlets by posting Copyrighted Photograph to Hadid's 43 million (43,000,000) Instagram followers.
25. Xclusive is informed and believes that Hadid, without the permission or consent of Xclusive, had knowledge or reason to know of such contributory infringement.
26. As a result of Hadid's actions, Xclusive is entitled to actual damages or such other and further relief as is just and proper.

**PRAAYER FOR RELIEF**

WHEREFORE, Xclusive prays for judgment against Hadid as follows:

- A. Declaring that Hadid's unauthorized conduct violates Xclusive's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Hadid, its officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing Xclusive's Copyrighted Photograph without consent or otherwise infringing Xclusive's copyright or other rights in any manner;
- C. Ordering Hadid to account to Xclusive for all gains, profits, and advantages derived by Hadid by their infringement of Xclusive's copyright or such damages as are proper, and since Hadid intentionally infringed Xclusive's copyright, for the maximum allowable statutory damages for each violation;

- D. Awarding Xclusive actual and/or statutory damages for Hadid's copyright infringement in an amount to be determined at trial;
- E. Awarding Xclusive his costs, reasonable attorney's fees, and disbursements in this action, pursuant to 17 U.S.C. § 505; and
- F. Awarding Xclusive such other and further relief as is just and proper.

JURY DEMAND

Xclusive hereby demands a trial by jury on all claims for which there is a right to jury trial.

Respectfully submitted,

Dated: January 28, 2019

REESE LLP

/s/ Michael R. Reese  
Michael R. Reese  
100 West 93<sup>rd</sup> Street, 16<sup>th</sup> Floor  
New York, New York  
Telephone: (212) 643-0500  
Facsimile: (212) 253-4272  
Email: [mreese@reesellp.com](mailto:mreese@reesellp.com)

- and -

David C. Deal  
The Law Office of David C. Deal, P.L.C.  
P.O. Box 1042  
Crozet, VA 22932  
Telephone: (434) 233-2727  
Facsimile: (888) 965-8083  
Email: [david@daviddeal.com](mailto:david@daviddeal.com)

*Counsel for Plaintiff*

# EXHIBIT 1



# EXHIBIT 2

[Copyright](#) United States Copyright Office COPYRIGHT HOME

[Home](#) | [My Profile](#) | [Help](#) | [Contact Us](#) | [Log Out](#)

[\[<< Back\]](#)

**Case Summary:**

<b>Case #:</b> 1-7053724741	<b>Type of Case:</b> Work of the Visual Arts	<b>Opened:</b> 10/19/2018
<b>Title:</b> Gigi Hadid on Oct 11, 2018	<b>Contact Name:</b> I-Sheng Li	
<b>Fee Due:</b> 55.00	<b>Service Fee Paid:</b> 55.00	<b>Claim Status:</b> Pending

**Submit Your Work(s)**

To complete your submission, please submit the required copy(ies) of your work. You may (1) upload electronic files if the work meets the requirements; otherwise, you must (2) send the work by mail (do not do both).

(1) Upload your work(s): Please perform the following steps for the case(s) in the table below.

Step 1: Click the "Select files to upload" button. Using your computer's browser, select your files for the corresponding work then click the "Start upload" button.

Step 2: After uploading all files for this work, click the corresponding "Complete Your Submission" button. Files cannot be uploaded later than 5 days after your first file is received.

**Please note:** Files cannot be returned or deleted once uploaded. To avoid delays and/or a later effective date of registration, please verify the following before uploading a copy of your work(s):

- It is a category of work that may be uploaded
- It is an acceptable file type
- It is an acceptable file size

**Upload Your Work(s)**

<b>Case Details</b> Case # 1-7053724741 Title: Gigi Hadid on Oct 11, 2018 Volume: Number: Issue Date: Type of Work: Work of the Visual Arts <b>Updates</b> Comments: Submitted by GRAMCES on 10/19/2018 <b>2) Send Your Work(s) by Mail:</b> Click the "Create Shipping Slip" button in the table below; a Shipping Slip link will appear in the Attachments column. Click the Shipping Slip link and print out and attach the shipping slip(s) to your deposit copy(ies). For multiple cases, be sure to attach shipping slips to the corresponding copies. Mail the deposit copy(ies) within 30 days to the Copyright Office address at the bottom of the slip. Note: Your effective date of registration will be based on the date on which we receive the copies with corresponding shipping slips attached. Click "Home" after uploading file(s) or printing shipping slip(s). You may verify the submission in the open Cases table on your eCO home page.	<b>Step 1: Select &amp; Upload Files</b> Step 2: Complete Your Submission  Claim submission completed; no further action required. Click here for more information. View Uploaded File Names
---	---

**Send Your Work(s) by Mail**

[\[<< Back\]](#)

[\[Create Shipping Slip\]](#)

Attachment Name	File Type	Size	Date and Time	Comments
No Records				

Privacy Act Notice: Sections 409-410 of the 17 U.S. Code authorize the Copyright Office to collect the personally identifying information requested on this form in order to process the application for copyright registration. By providing this information you are agreeing to routine uses of the information that include publication to give legal notice of your copyright claim as required by 17 U.S.C. § 705. It will appear in the Office's online catalog. If you do not provide the information requested, registration may be refused or delayed, and you may not be entitled to certain relief, remedies, and benefits under the copyright law.

[\[<< Back\]](#)

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<b>Fee Due:</b> 55.00	<b>Service Fee Paid:</b> 55.00	<b>Claim Status:</b> Pending

# EXHIBIT 3

Instagram | <https://www.instagram.com/gigihadid/?hl=en>

 **gigihadid**  [Follow](#)

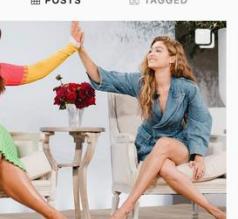
2,782 posts 43.7m followers 896 following

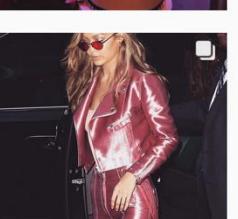
Gigi Hadid  
GIGI xx [intoku]  
IMG Models Worldwide. twitter: gigihadid  
[www.crowdrise.com/UNICEFuprooted](http://www.crowdrise.com/UNICEFuprooted)

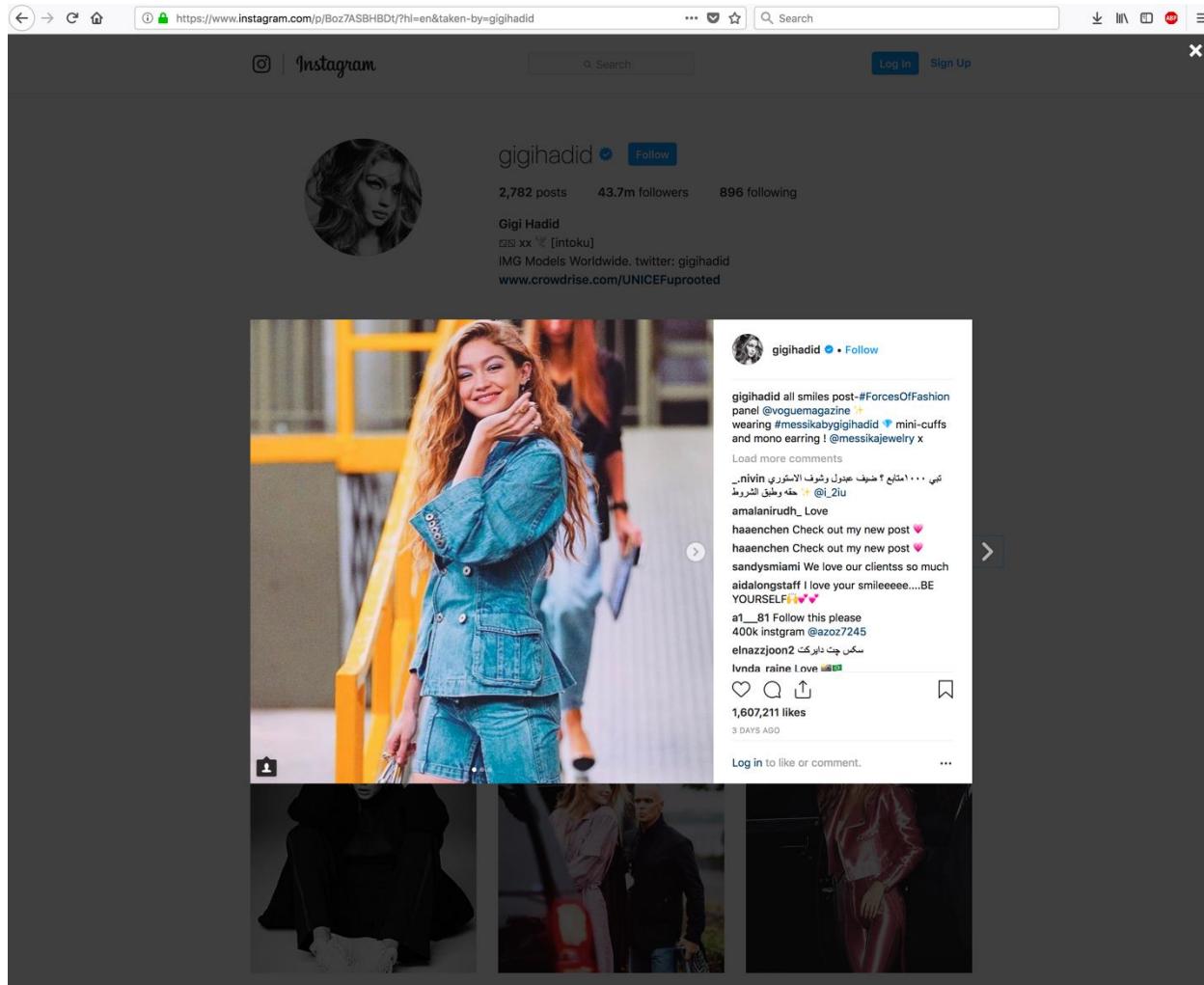
[Fashion M...](#) [MESSIKA ...](#) [work / life](#) [days-off](#) [UNICEF](#) [GH x VE](#) [TOMMYxG...](#)

[POSTS](#) [TAGGED](#)

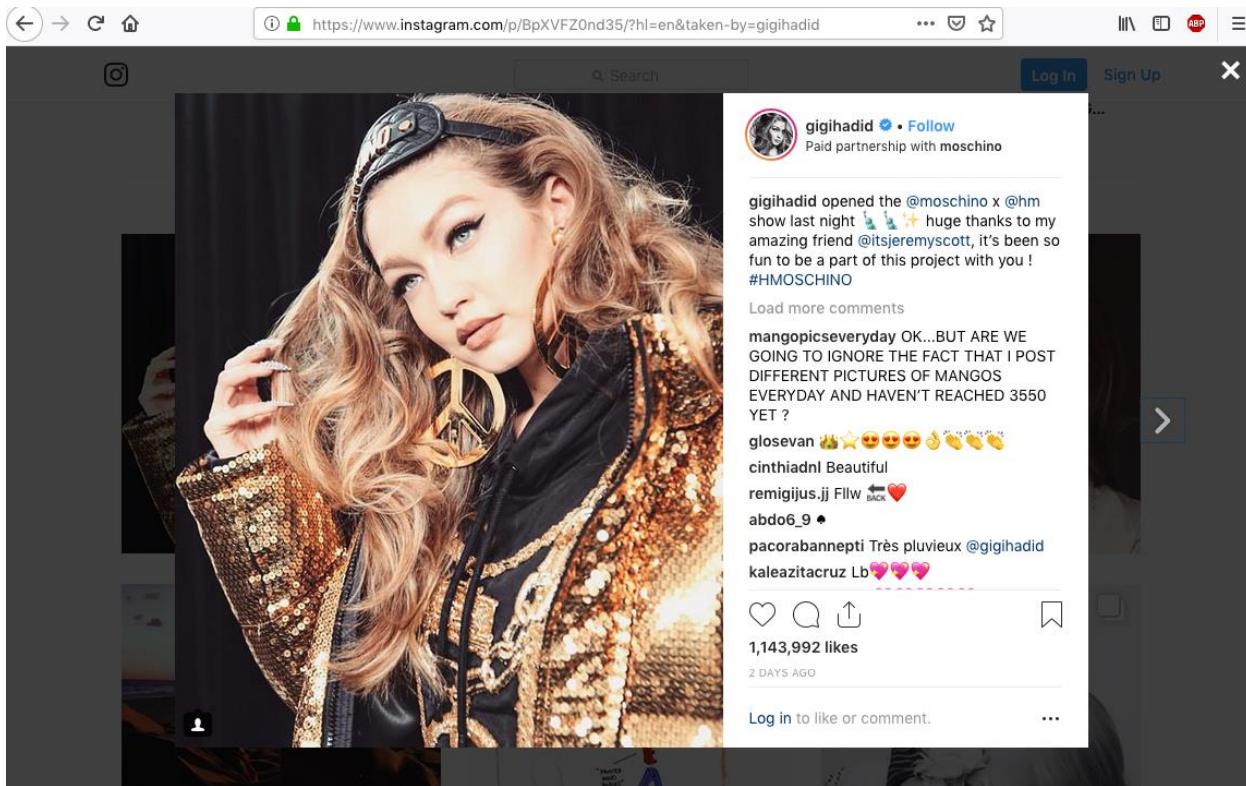
  

# EXHIBIT 4



# EXHIBIT 5



https://www.instagram.com/p/BpXVFZ0nd35/?hl=en&taken-by=gigihadid

**gigihadid** • Follow  
Paid partnership with moschino

gigihadid opened the @moschino x @hm show last night 🌟🌟🌟 huge thanks to my amazing friend @itsjeremyscott, it's been so fun to be a part of this project with you ! #H莫斯奇诺

Load more comments

mangopicseveryday OK...BUT ARE WE GOING TO IGNORE THE FACT THAT I POST DIFFERENT PICTURES OF MANGOS EVERYDAY AND HAVEN'T REACHED 3550 YET ?

glosevan 🌸⭐😍😍😍😍😍

cinthiadnl Beautiful

remigijus.jj Flw BACK ❤️

abdo6\_9 •

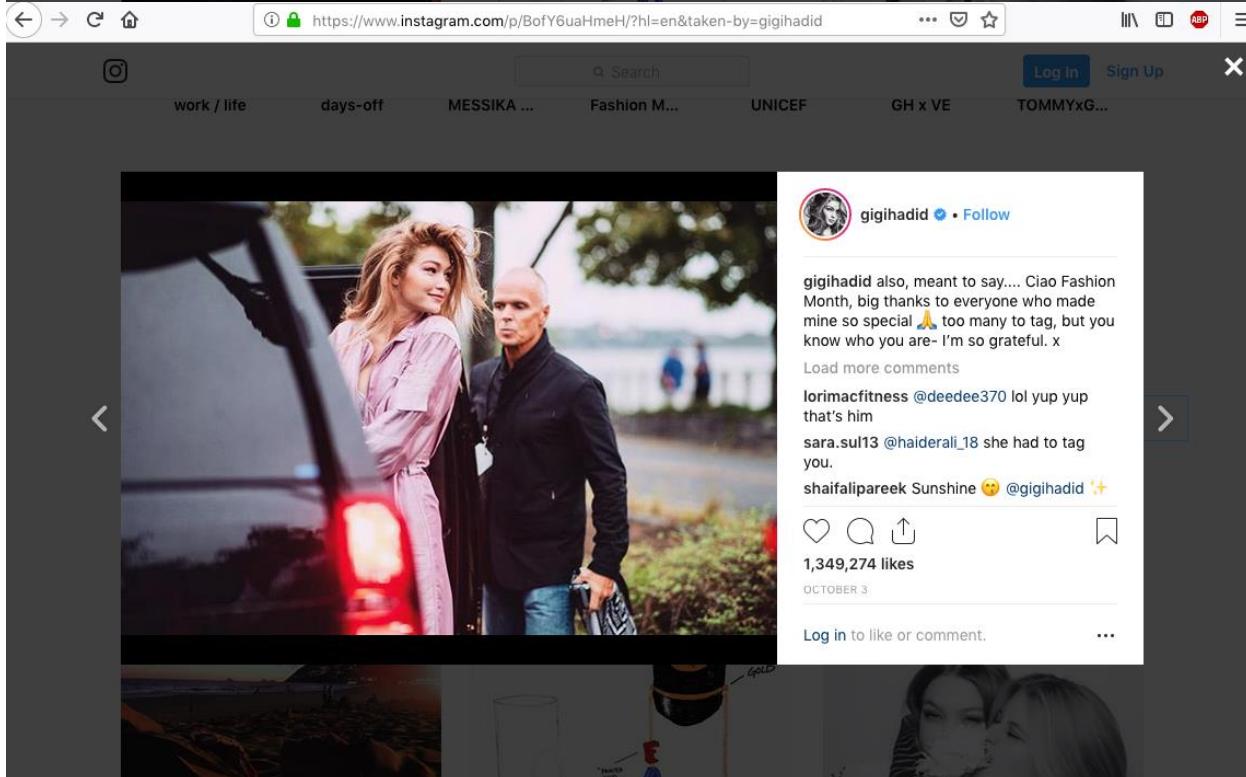
pacorabannepti Très pluvieux @gigihadid

kaleazitacruz Lb ❤️❤️

1,143,992 likes

2 DAYS AGO

Log in to like or comment.



https://www.instagram.com/p/BofY6uaHmeH/?hl=en&taken-by=gigihadid

**gigihadid** • Follow

gigihadid also, meant to say.... Ciao Fashion Month, big thanks to everyone who made mine so special 🙏 too many to tag, but you know who you are- I'm so grateful. x

Load more comments

loramacfitness @deedee370 lol yup yup that's him

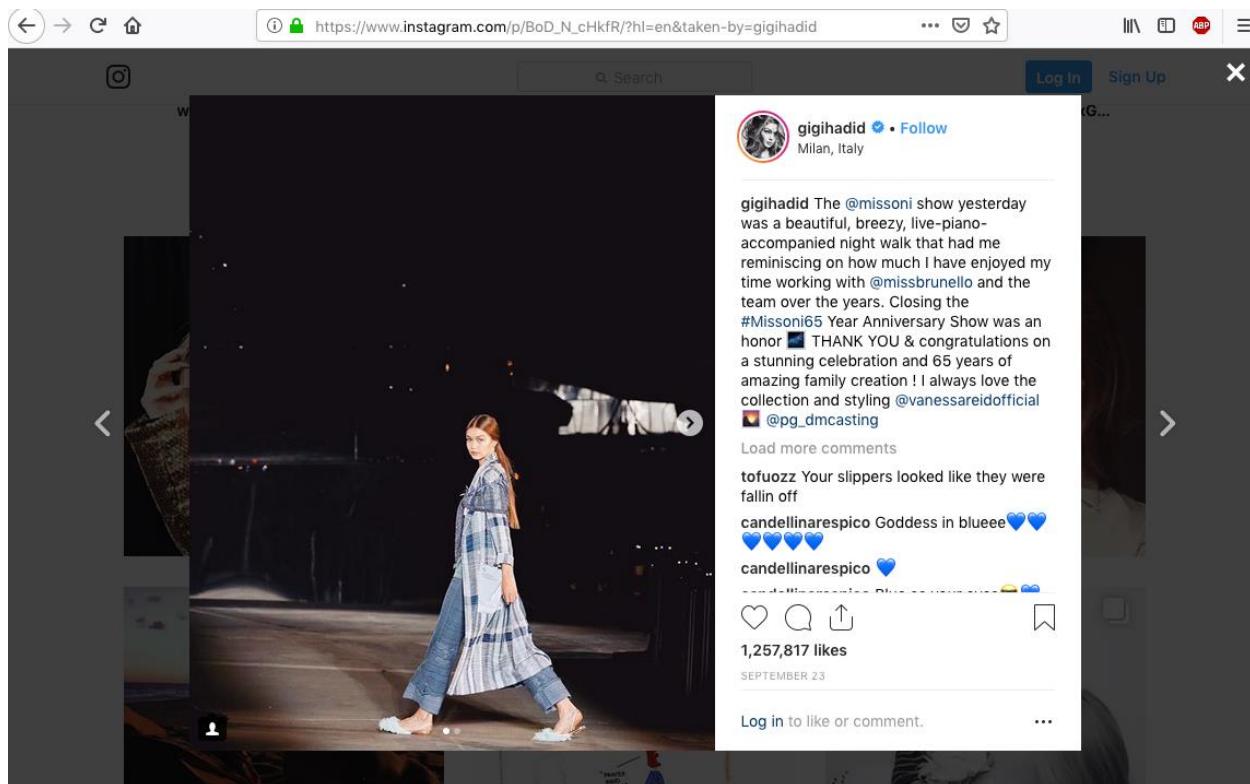
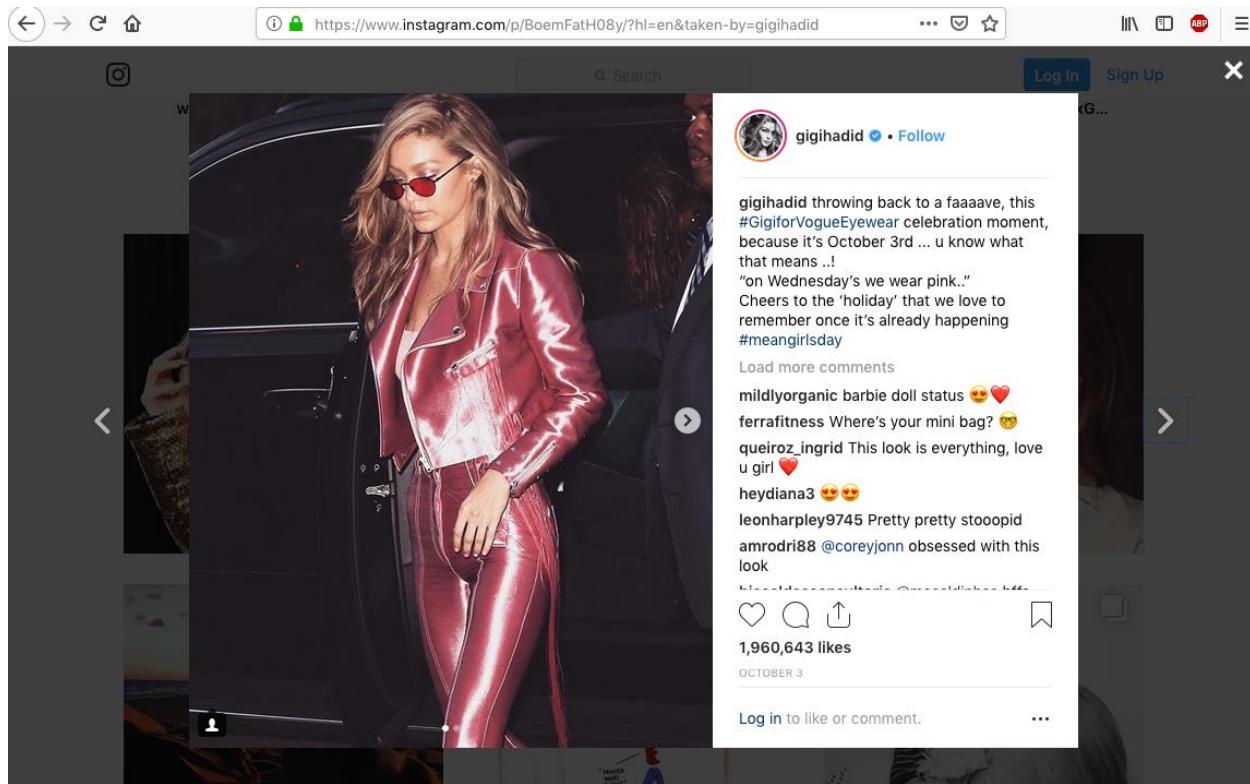
sara.sul13 @haiderali\_18 she had to tag you.

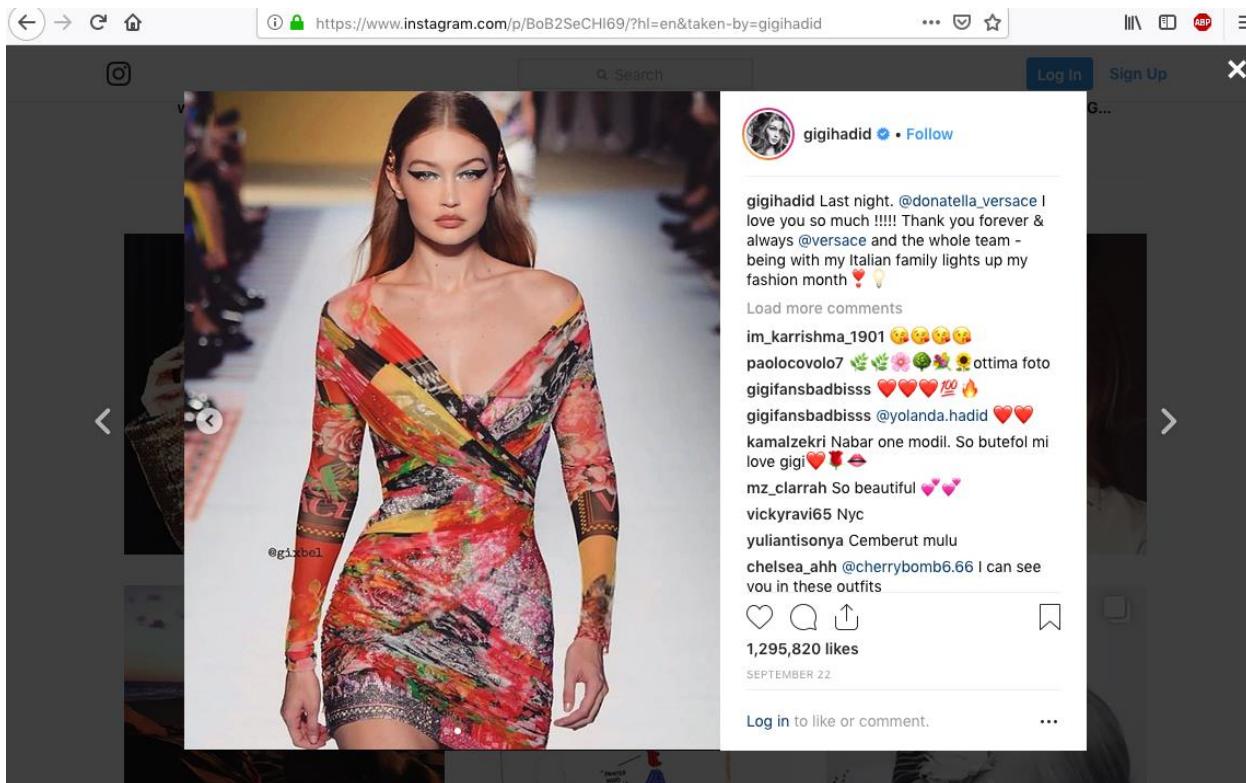
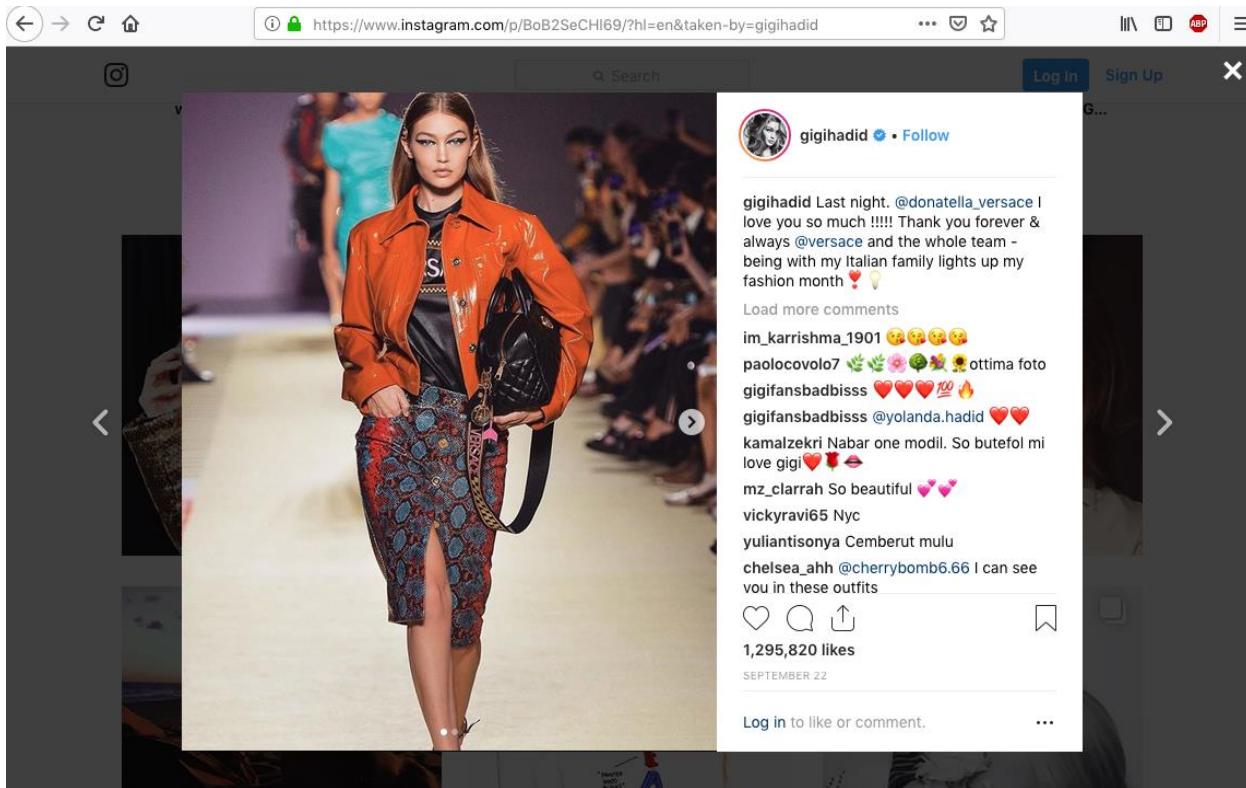
shafalipareek Sunshine 😊 @gigihadid ✨

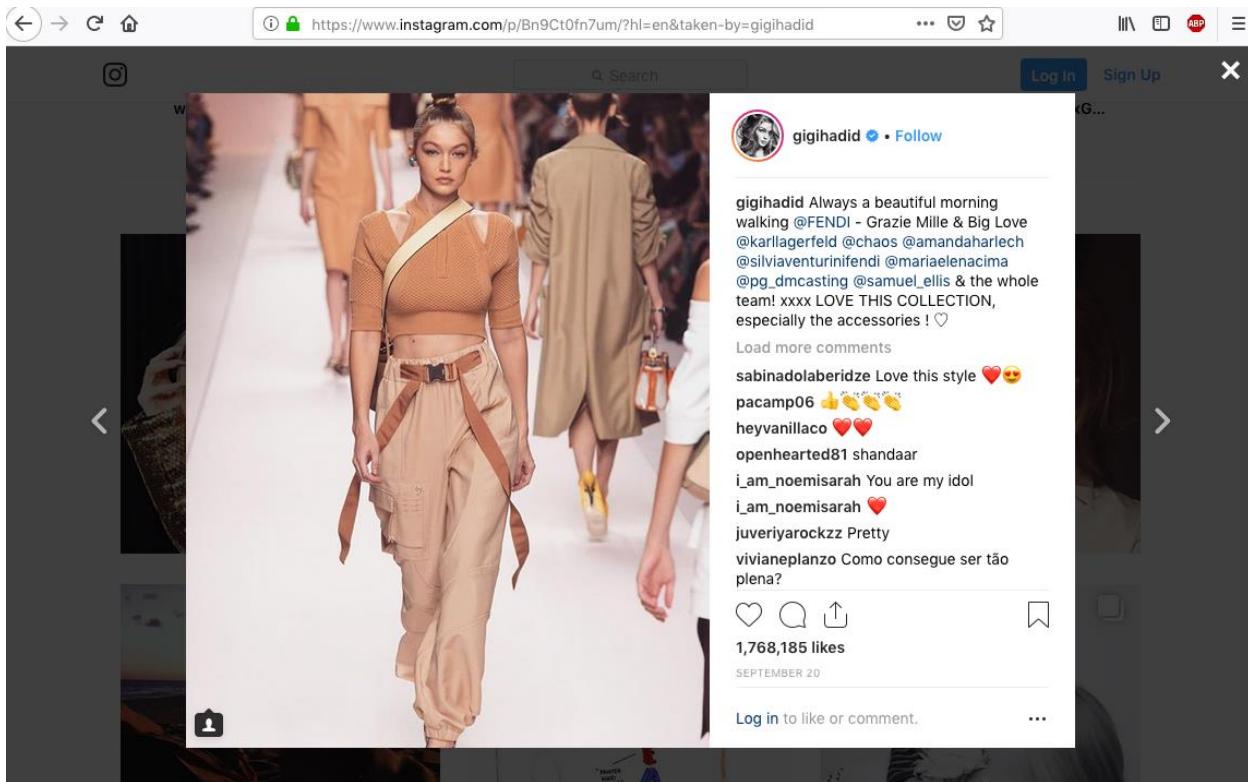
1,349,274 likes

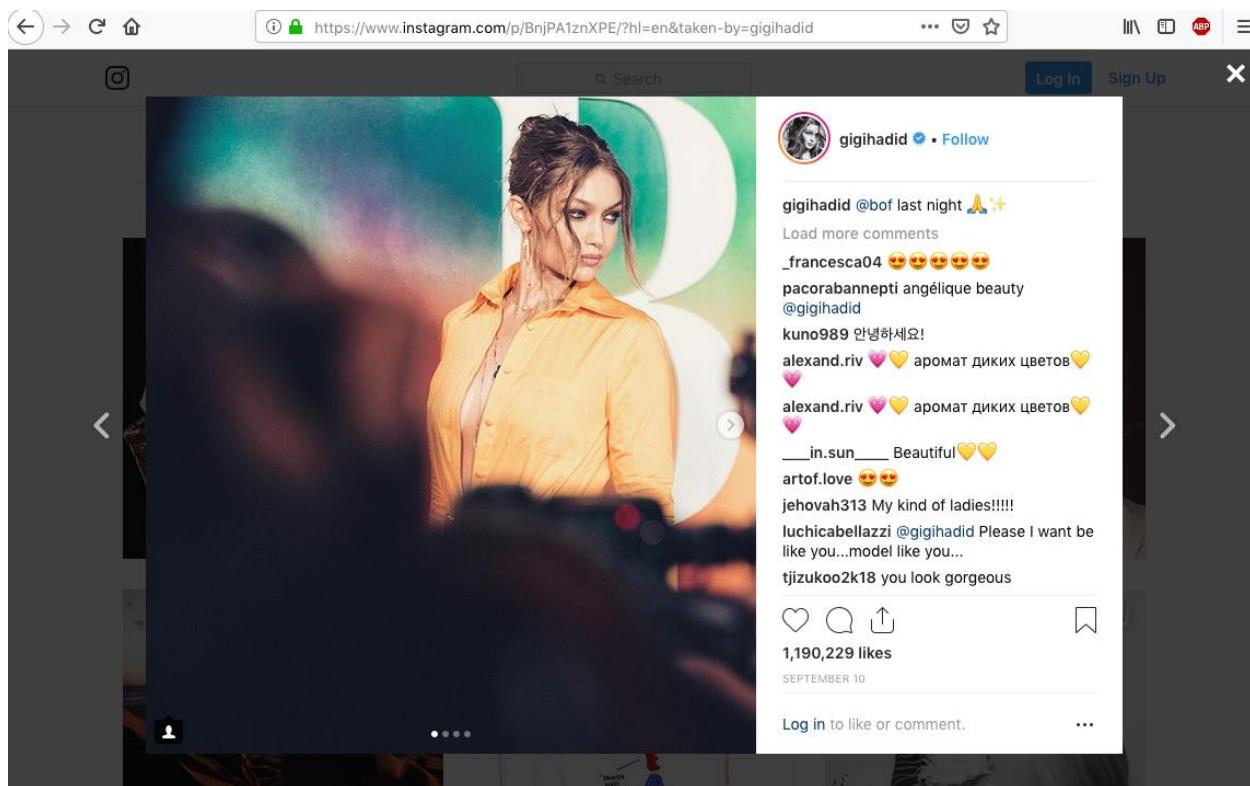
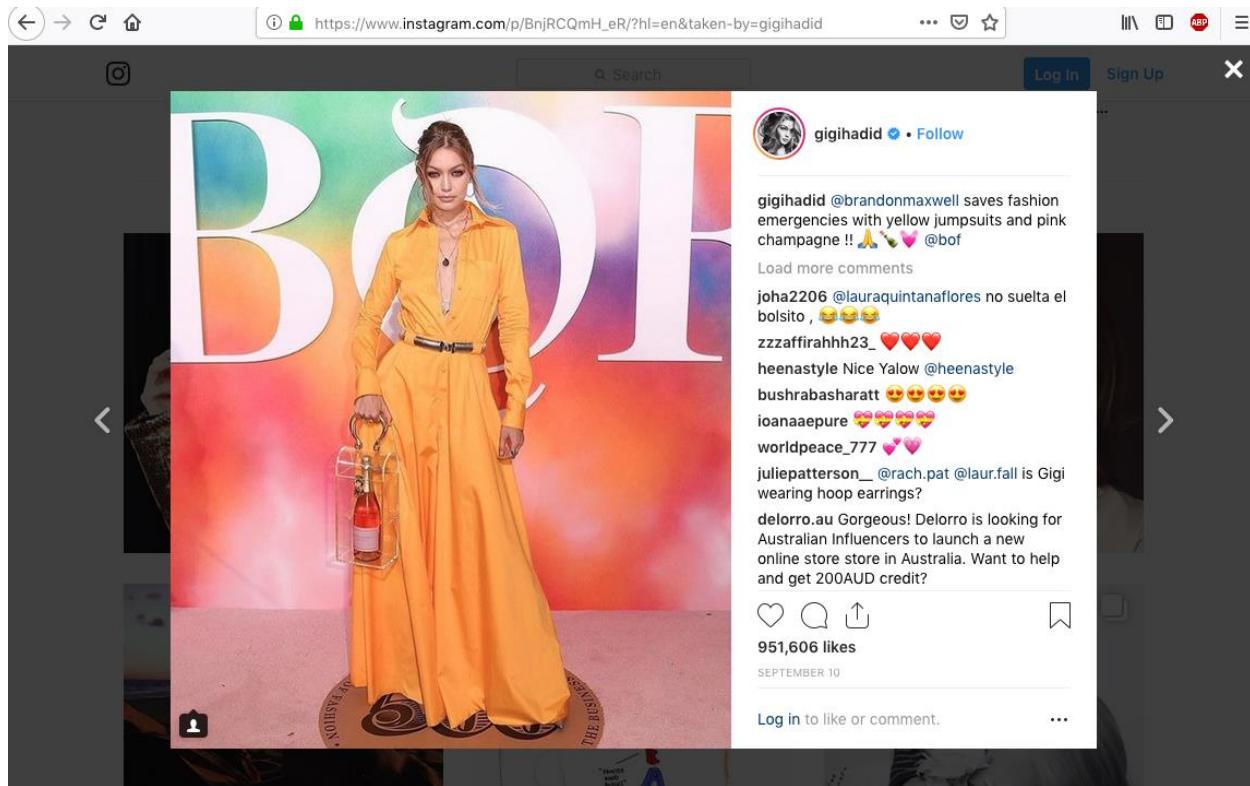
OCTOBER 3

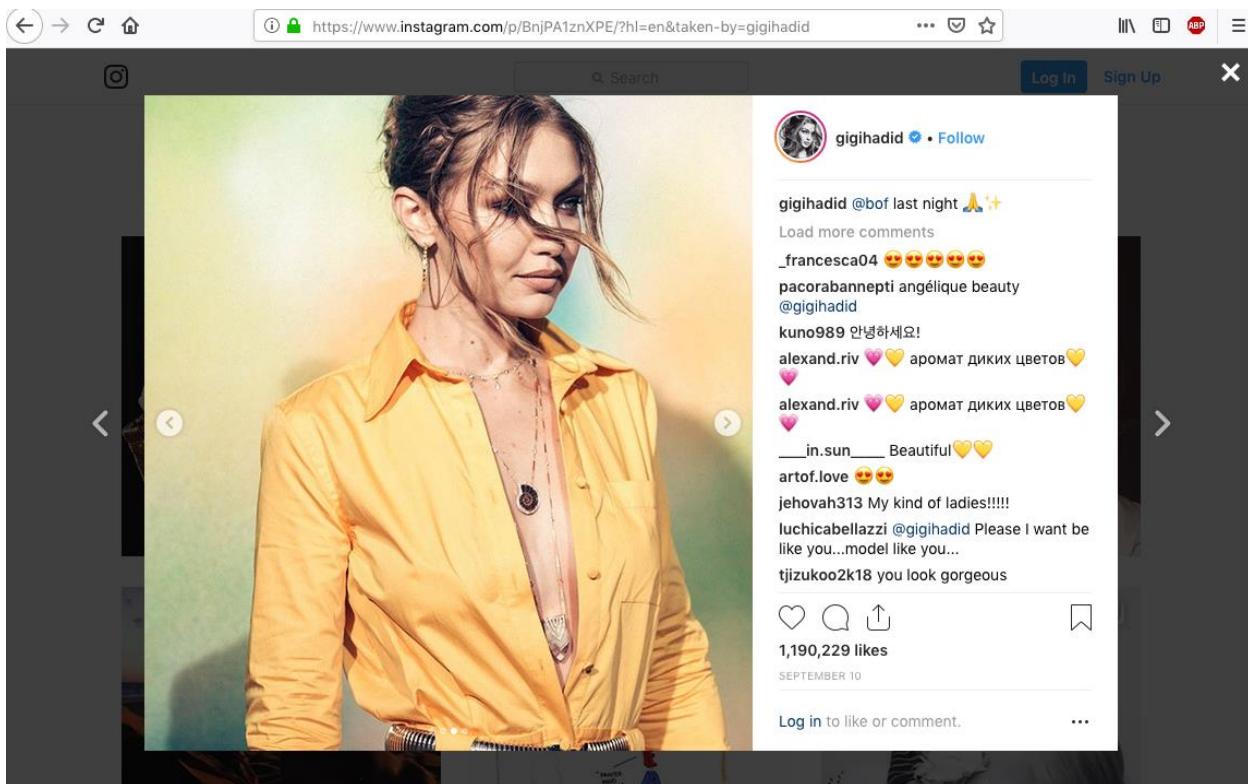
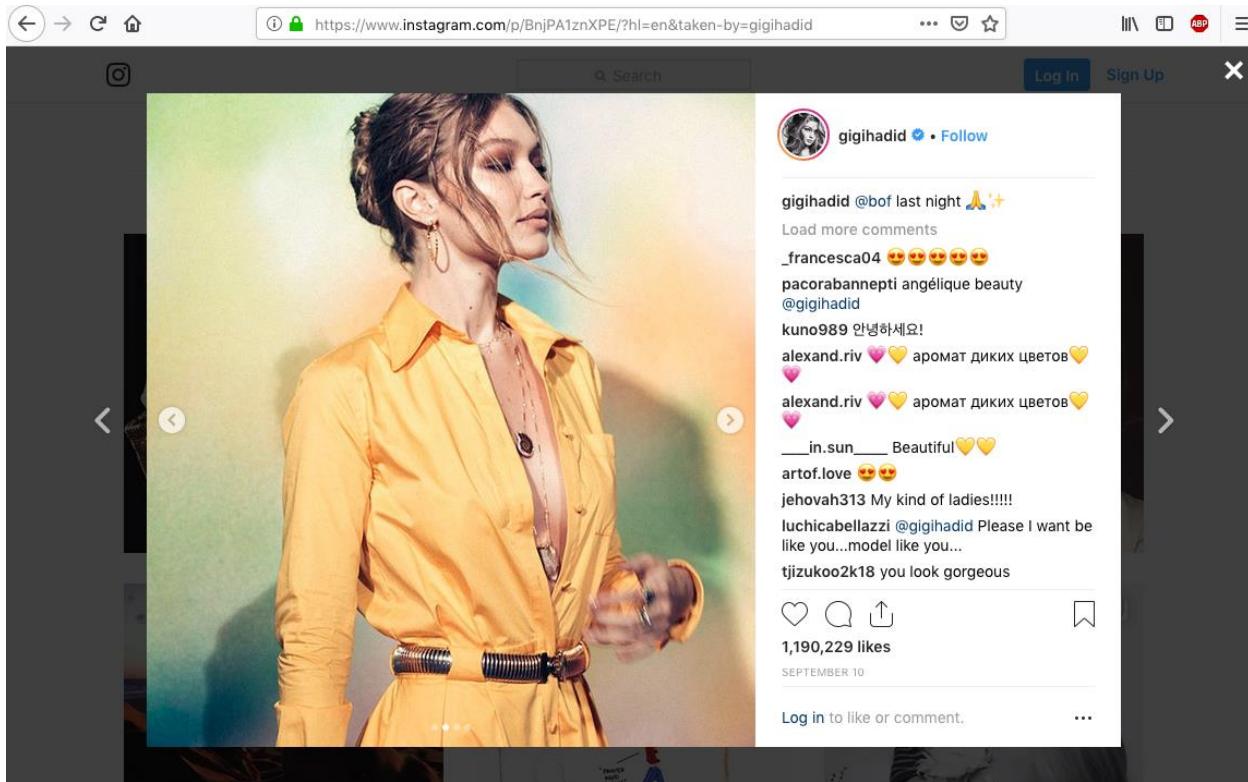
Log in to like or comment.

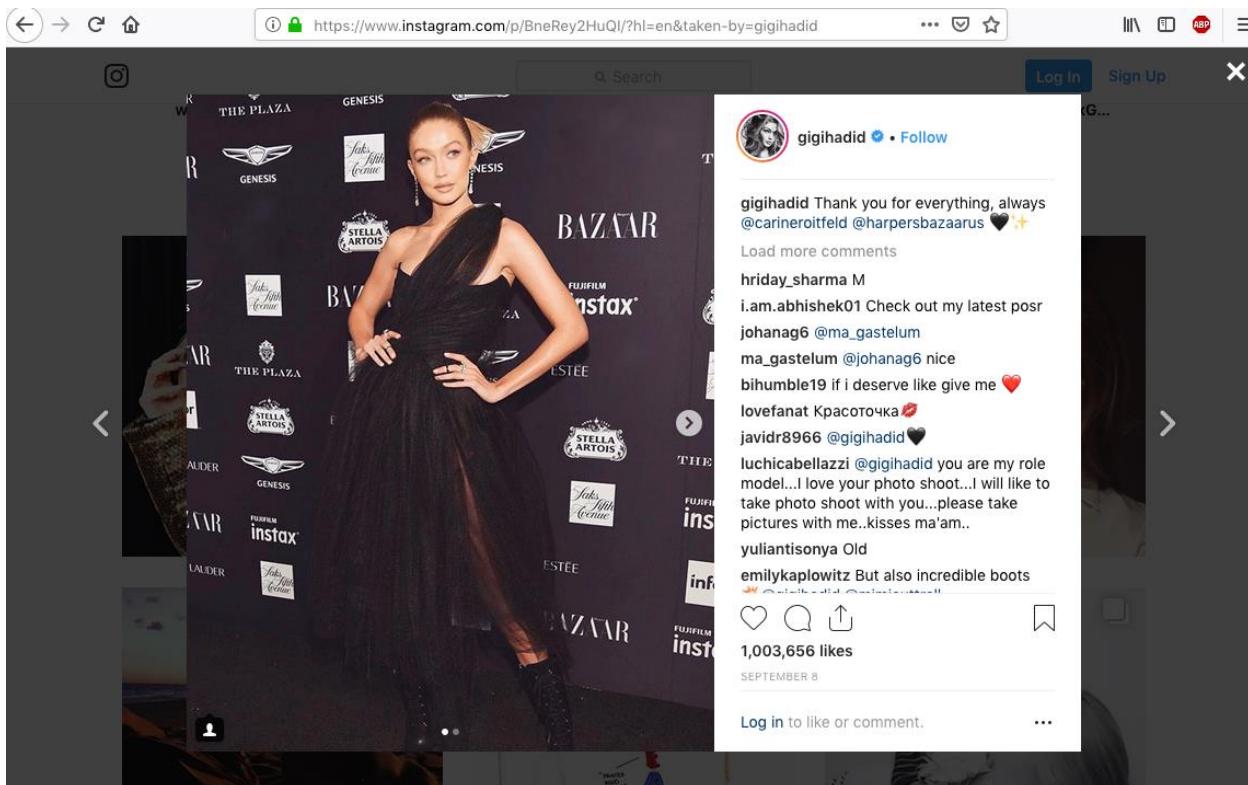
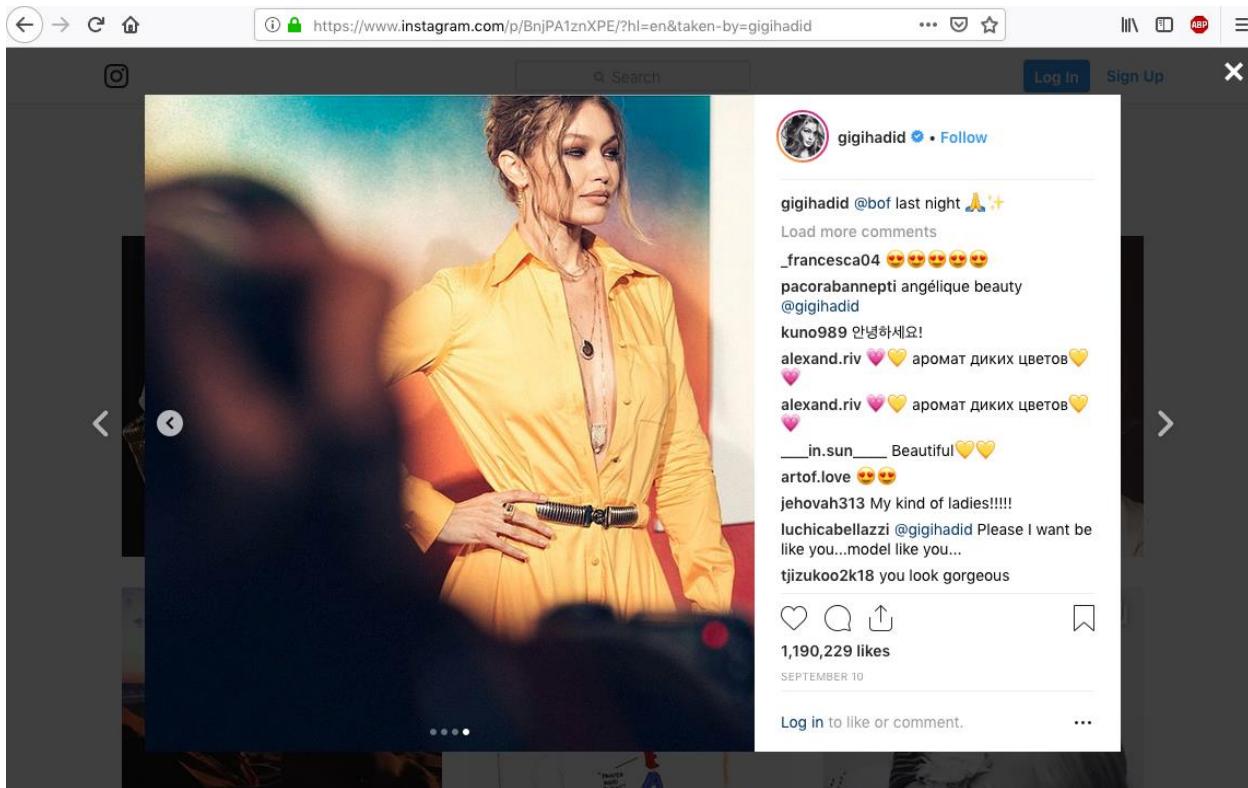


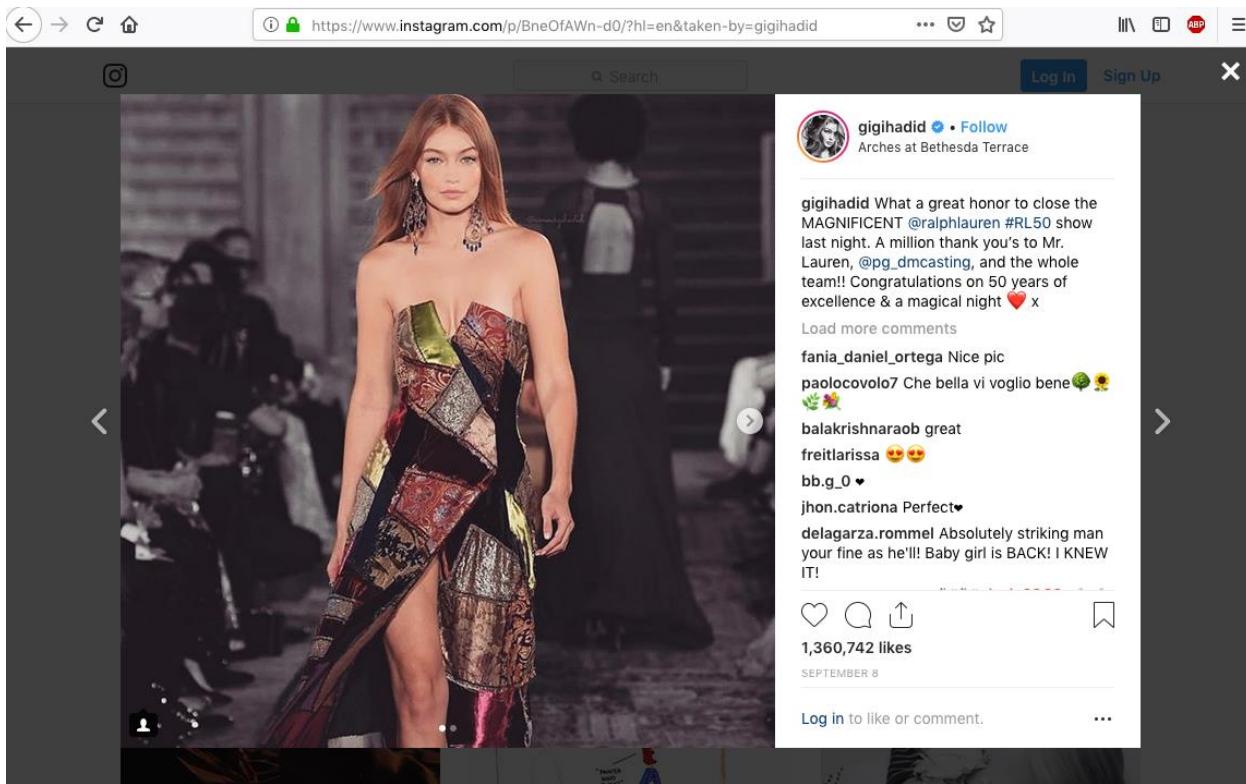












https://www.instagram.com/p/Bm6klF-n9-1/?hl=en&taken-by=gigihadid



gigihadid B- You make being a Legend (and also being kind, hilarious, perceptive, grounded, hardworking, the hottest mom, AND wildly stylish- all at the same time) look easy. I feel lucky to have a friend like you to look up to... thnx for bein my # 1 go-to gal for Home baking challenge dreams- come-true & serious, unapologetic @taylorswift backup dancing. Love you. Happy Happy Birthday @blakelively !!!!! ❤️  
Load more comments

hersportscorner Great picture  
ananastya.sup @advithya I mean, c'mon, at least don't be in the same picture ahah the force is too strong  
ob\_b1 You have one of the good galleries I've seen today 🙌  
advithya @ananastya.sup ahaha yep

2,945,076 likes

AUGUST 25

Log in to like or comment.

https://www.instagram.com/p/Bjr4JlBHeN/?hl=en&taken-by=gigihadid



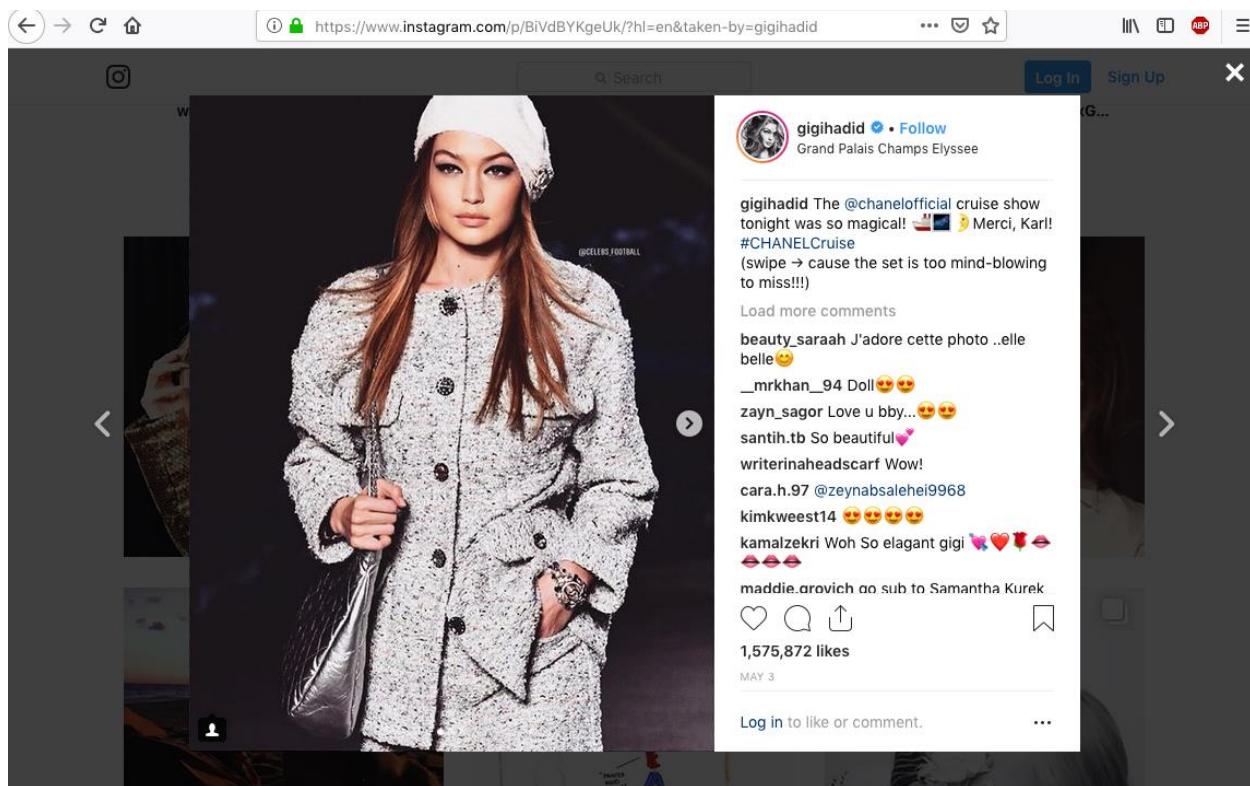
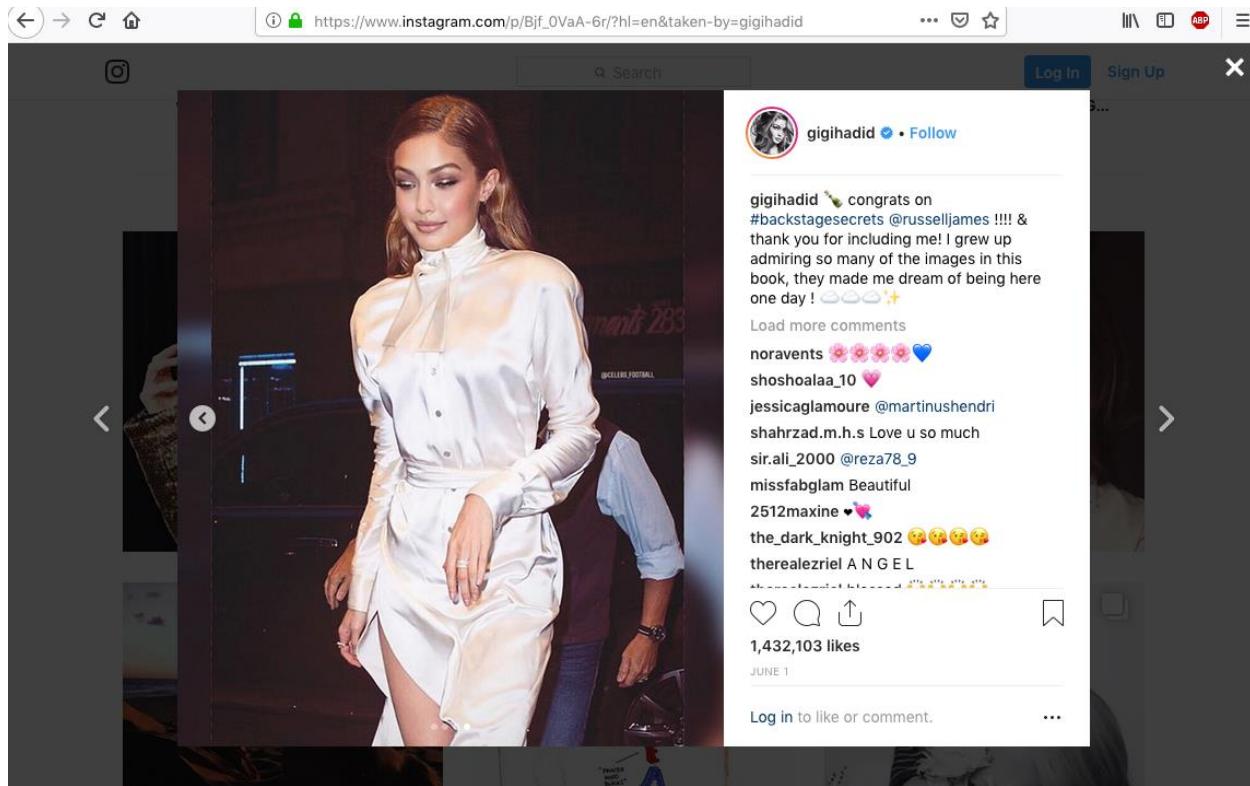
gigihadid 🍫  
Load more comments

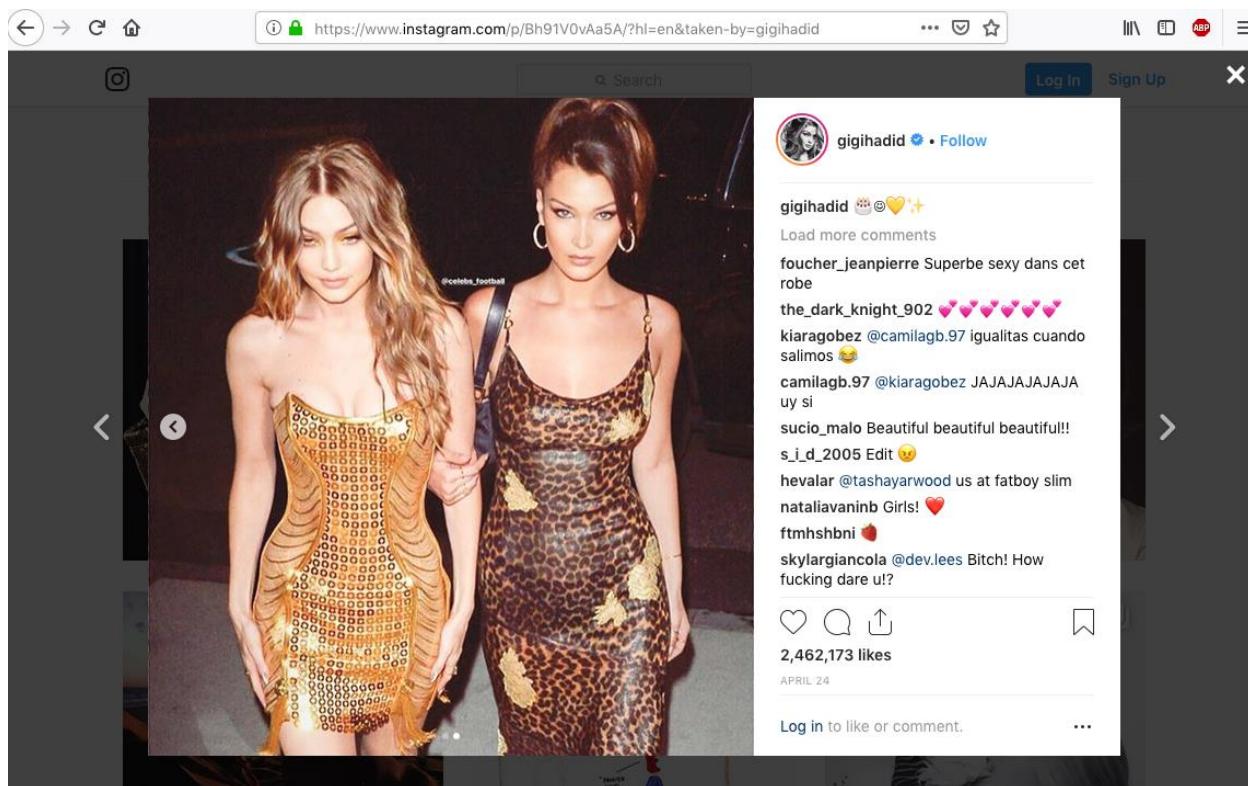
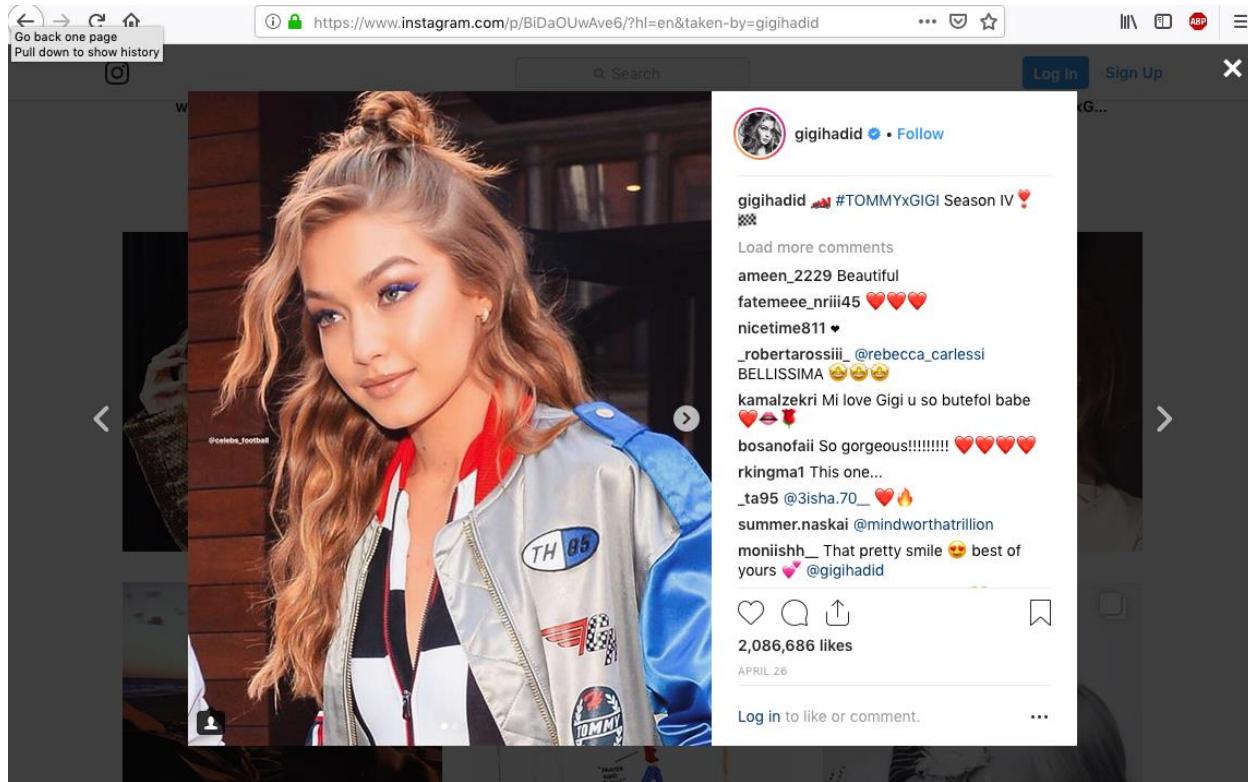
\_ankita.m @the.realshit.gyan 😂😂😂😂  
delmars swimwear @gigihadid Great Photo!! Very Nice Feed! 😍  
pesare.lea.oo2 You are very gorgeous  
xarnelya 💕WHAT A BEAUTIFUL ANGEL  
morganicforu Ur a whole cutie  
adiba\_6113 Sexy ❤️❤️❤️  
worldpeace\_777 💕💕  
hollywoodcastle.27 Best style 💕💕💕  
the\_dark\_knight\_902 💪⚡⚡⚡⚡⚡⚡⚡⚡  
kashifzubair5147 ❤️  
selin.swiftie @fahrii\_g ne diyon lan sen

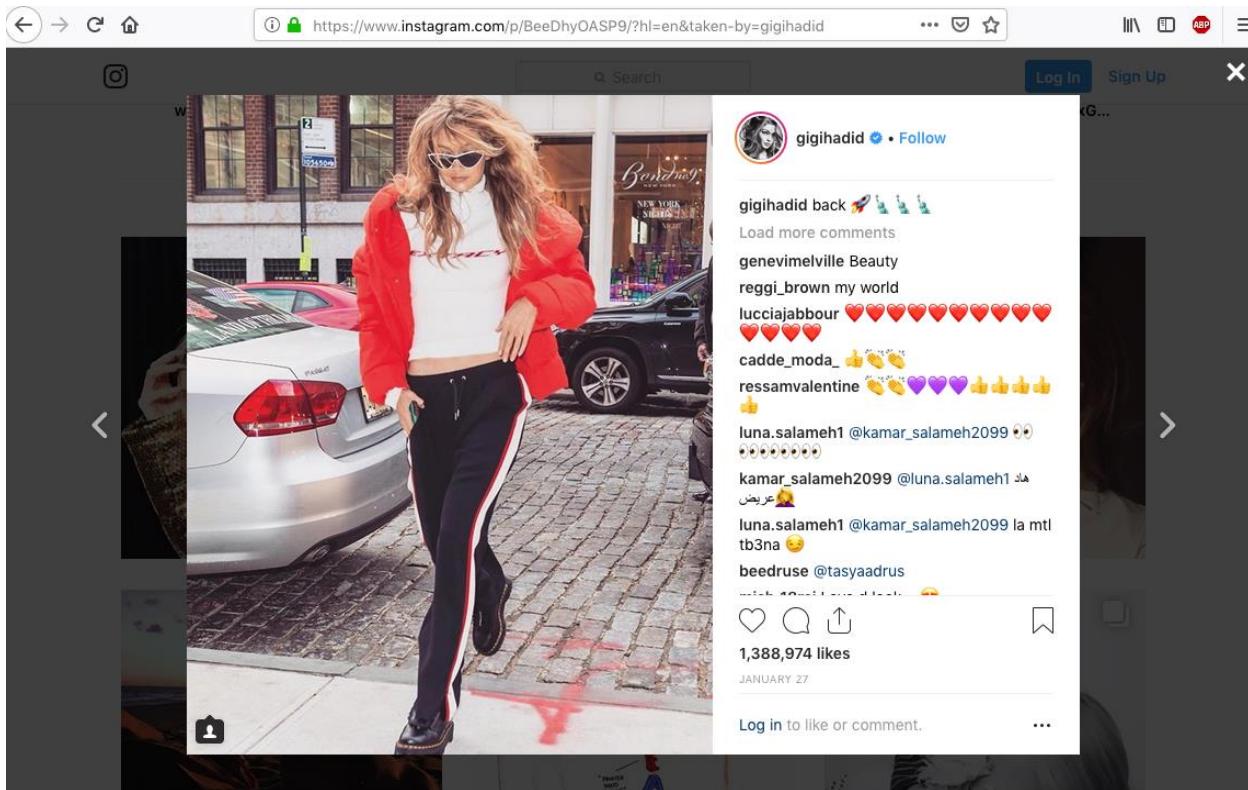
1,957,779 likes

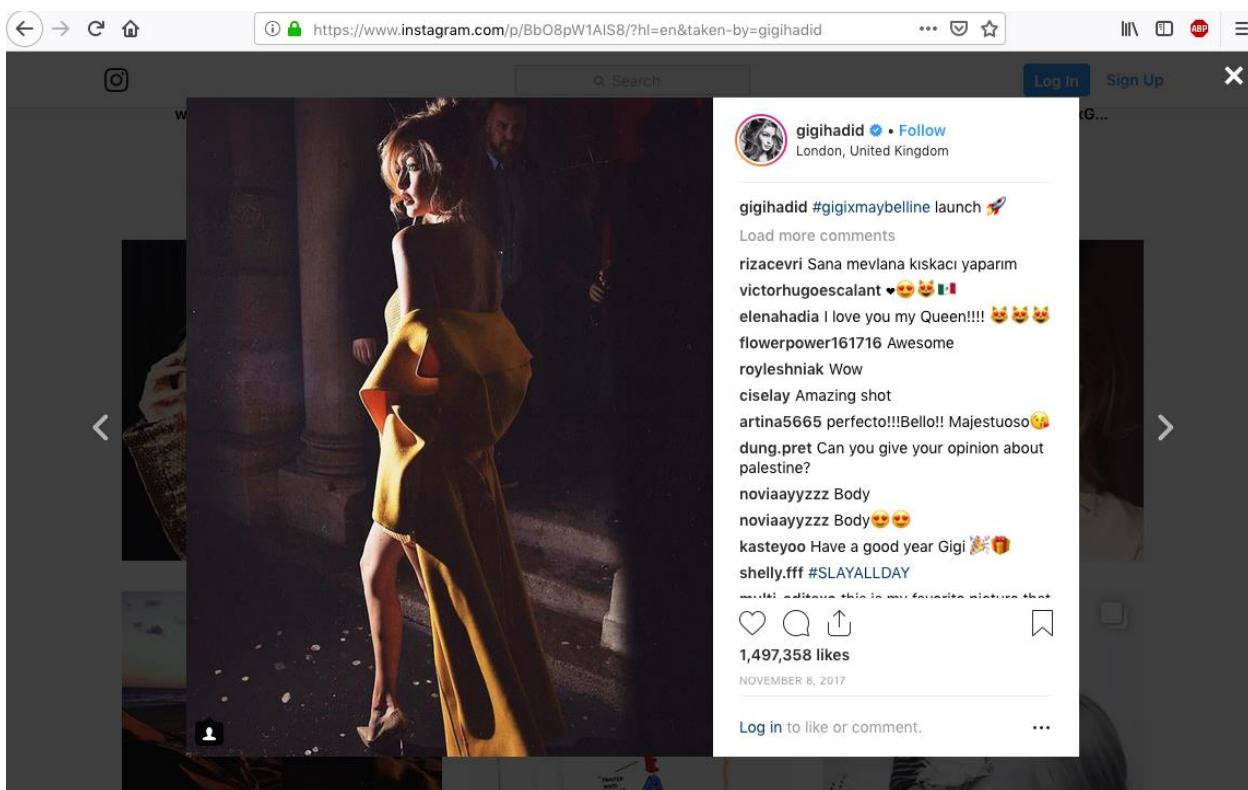
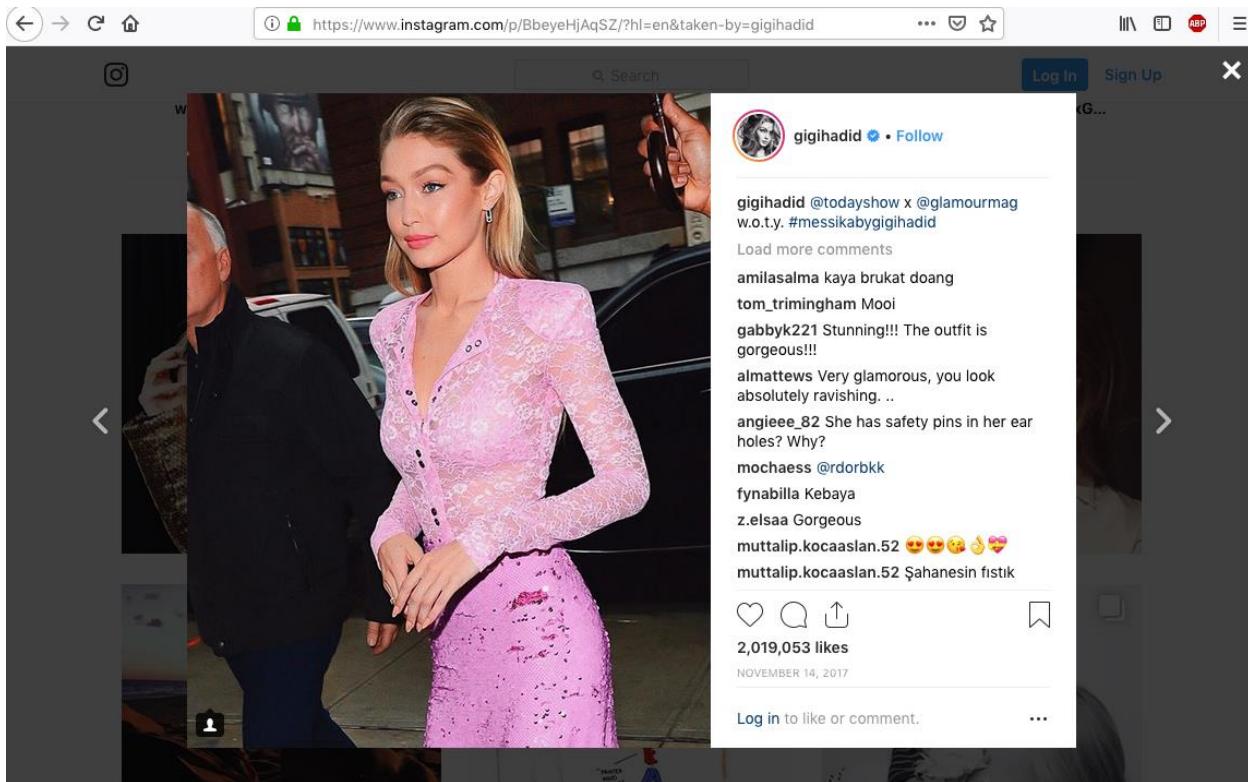
JUNE 6

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Go back one page  
Pull down to show history

https://www.instagram.com/p/BZ4CtVngHkw/?hl=en&taken-by=gigihadid

Log In Sign Up X



gigihadid • Follow

gigihadid @reebok ❤️  
Load more comments

k\_bhuvanta You have a fashion brand gigi  
sudetmb Çok zayıfsın gigi  
serenaysarikaya\_9198 Very cool  
@gigihadid  
helena.langer @keyla.cgn  
didad.zain Boginya  
selcann.koc @nida.gunesdogdu çok fazla  
ince  
nida.gunesdogdu @selcann.koc qıskanc  
luciajochmann Coole hose  
aufa.nbilaptri Pretty 😻😻  
yoonmeds Sakit ng uo ko bes, break na  
kami ni zayn.  
kamalzekri Mi love Gigi Ar U Naver love only

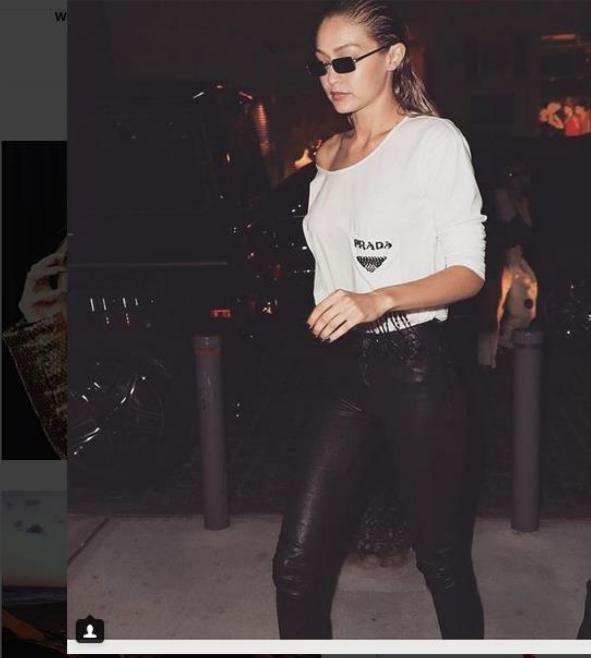
1,305,378 likes

OCTOBER 5, 2017

Log in to like or comment. ...

https://www.instagram.com/p/BZ1Mt37g46h/?hl=en&taken-by=gigihadid

Log In Sign Up X



gigihadid • Follow  
New York, New York

gigihadid already ordered sushi to my apt  
Load more comments

\_naledi.m 🇩🇪 😊  
sammie.owen @gigihadid hi girl, I know this  
is a long shot but I'm doing my senior art  
show at CBU in Memphis on sexual assault  
and rape, I am a victim of sexual violence  
and I'm trying to create a dialog for both  
men and women to have a safe anonymous  
way to get the conversation started. My  
twitter account is @sammie\_reeves, I  
couldn't put it on Instagram bc it was too  
long. If you could retweet it so I can gain  
momentum I would really appreciate it.  
georgiaisobel @skanderson these sunnies  
alialsallman روی المولو  
mrs.peach\_\_ I love you, GiGi 😍😍😍

1,258,328 likes

OCTOBER 4, 2017

Log in to like or comment. ...